IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 17TH JULY 2006 / 26TH ASHADHA,1928

Bail Appl..No. 4051 of 2006

(CRIME NO.395 /2006 OF MANJERI POLICE STATION)

PETITIONER/ACCUSED

KOOLIYODAN SULAIMAN,
S/O.ALAVI, VAYAPPARAPADI, MANJERI,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA, REPRESENTED
BY THE SUB INSPECTOR OF POLICE,
MANJERI POLICE STATION-THROUGH THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,
KOCHI-31.

BY PUBLIC PROSECUTOR K. RAVIKUMAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A.4051/2006

DATED THIS THE 17TH DAY OF JULY, 2006

O R D E R

The petitioner is a licensee, for conducting granite stone quarry, in the property of one Kodakkadan Mohammed. However, he was found in possession of five kilograms of sulphar. The petitioner submitted that as he was licensed, he was conducting the quarrying, through explosion of the granite. The prosecution submits that the petitioner, though was permitted to quarrying, was not legally authorised to possess such explosive substances. Manjeri Police registered crime No.395/2006 under Section 5 of Explosives Substances Act, 1908, and under Section 9 (b)(1) of the Explosives Act, 1884. The counsel submits that as the petitioner was possessing sulphar, section 9(b)(1) of the Explosives Act alone will be effective, and as the petitioner was not having any materials for making any explosives substances, section 5 of the Explosives Substances Act cannot be resorted to.

Yet another contention of the counsel is that in such circumstances, the offence alleged under the Explosives act is triable by the Magistrate court and the petitioner is hence entitled for bail. The application is filed, under Section 438 Cr.P.C.

2. After hearing both sides, I direct the petitioner to surrender before the investigating officer of Manjeri Police Station, on 21.7.2006 between 10.00 a.m and 11.00 a.m. The petitioner shall be interrogated by the investigating officer and thereafter, be produced before the Judicial Magistrate of First Class-I, Manjeri, as per the law. If the investigating officer requires the petitioner for further interrogation, he may move an application before the Court below for the custody of the petitioner, which shall be heard by the learned Magistrate and appropriate orders shall be passed according to the law.

3. If the petitioner move an application for bail, on production, the learned Magistrate shall also hear him as well as the Prosecutor and pass orders on that

application. If the application for bail is filed, after serving copy of the same to the APP, well in advance, the same shall be heard and disposed of, on the same day itself, considering the contentions of the petitioner.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs